

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

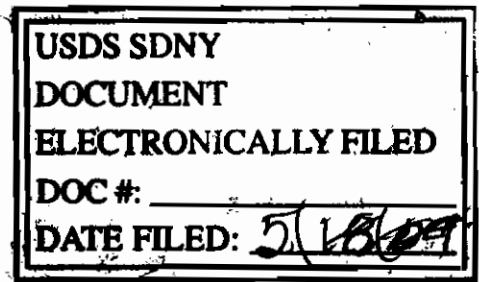
- v -

DANIEL B. KARRON,

Defendant.

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**NAOMI REICE BUCHWALD**  
**UNITED STATES DISTRICT JUDGE**



**MEMORANDUM & ORDER**

08 Civ. 10223 (NRB)

In its March 17, 2009 Order, this Court denied defendant's request to stay this case pending the resolution of defendant's criminal appeal. On April 17, 2009, defendant filed a notice of appeal from this non-final order. Now before the Court is defendant's motion under 28 U.S.C. § 1292(b) to certify this decision for interlocutory appeal and defendant's request to proceed in forma pauperis pursuant to Rule 24 of the Federal Rules of Appellate Procedure.

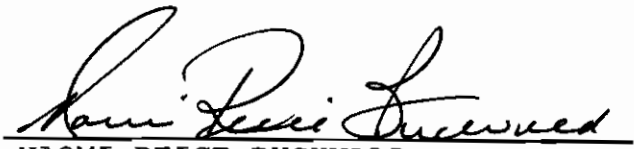
We find that this appeal does not meet the requirements for certification for an interlocutory appeal and thus we decline to the requested certification. The case law clearly establishes plaintiff's right to proceed despite the pendency of defendant's criminal appeal. As the government has already proven defendant's guilt in a criminal proceeding, the standard of proof

in this civil action has already been exceeded. For the same reasons, we also deny defendant's motion to proceed in forma pauperis.

If and when this action is again before this Court, we are prepared to adjourn the briefing of plaintiff's proposed motion for summary judgment until defendant is released from custody.

Insofar as defendant has endeavored to file a motion for reconsideration of our March 17, 2009 Order, entry #7 on the docket sheet, such motion is denied.

Dated: New York, New York  
May 15, 2009

  
NAOMI REICE BUCHWALD  
UNITED STATES DISTRICT JUDGE

A copy of the foregoing Order has been mailed on this date to the following:

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